

Finance and Administration Cabinet STANDARD PROCEDURE		ISSUED BY: Executive Management; Office of Equal Employment Opportunity and Contract Compliance (EEO/CC)
PROCEDURE # 3.1	SUBJECT: Equal Employment Opportunity	
EFFECTIVE DATE: 4/12/06, Revised 11/13/07, 10/23/14		
CONTACT: Executive Director (EEO/CC)		LOCATION: Capitol Annex, Room 395 PHONE: (502) 564-2874

STATEMENT OF AUTHORITY

1. The Finance and Administration Cabinet's Standard Procedures Manual establishes standard mandatory internal procedures cabinet-wide. These procedures are established in accordance with the Secretary's statutory authority under KRS 42.014 and KRS 12.270 to establish the internal organization and functions of the Cabinet as necessary to perform the duties effectively.
2. The Standard Procedures Manual may only be revised in accordance with the process outlined in Standard Procedure #1.1 entitled: "Finance Standard Procedures and Manual".

I. PURPOSE

The Finance and Administration Cabinet (Cabinet) recognizes its responsibility to abide by state and federal civil rights laws and [Executive Order 2013-841](#). This procedure establishes processes for handling allegations or suspicions of discrimination, harassment and retaliation and for reviewing requests for reasonable religious accommodation. Further, through this procedure, the Cabinet affirms its commitment to the [Executive Branch Affirmative Action Plan](#) for Kentucky state government.

The Cabinet does not tolerate discrimination, harassment or retaliation. The Cabinet shall maintain a positive, non-hostile work environment where all employees are safe to report discrimination or harassment or to request a reasonable religious accommodation without fear of retaliation.

This policy applies to all employment actions, including, but not limited to: recruiting, hiring, classification/compensation, benefits, promotions, transfers, layoffs, reinstatement and educational programs.

II. DEFINITIONS

"Complainant" means the person who files the EEO complaint.

"Discrimination" means unequal treatment of a class of persons. Further, discrimination involves treating one person unfairly over another according to factors unrelated to his/her ability or potential.

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“Equal Employment Opportunity (EEO)” means “equal access to all available jobs and training, under equal terms and conditions, and with equal benefits and services without actions, policies, or practices which differentiate among applicants or employees...” on the basis of their membership in, association or affiliation with—either real or perceived—a protected class.

“Harassment” means “any unwelcome verbal or physical conduct based upon the protected classes.” When the conduct affects a tangible employment action or when the conduct creates a hostile work environment, this is also harassment.

“Hostile Work Environment” means any discriminatory actions, communications or conduct that are “so severe or pervasive, that it creates a work environment that a reasonable person would consider intimidating, hostile or abusive.”

“Protected Class” means a characteristic of a person which cannot be targeted for discrimination or harassment. Protected Class includes race, color, religion, sex, national origin, disability, sexual orientation, gender identity, ancestry, age (40 or older) genetic information, political affiliation or veteran status.

“Reasonable Religious Accommodation” means any change in the work environment or in the way tasks and responsibilities are done that enables an employee to participate in his/her religious practice or belief without undue hardship or expense on the employer’s business or operation.

“Retaliation” means any negative or adverse action based upon the filing of or participation in the investigation of a complaint of discrimination or harassment. The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, transfers or lateral moves, layoffs, training, benefits, and any other terms or conditions of employment.

“Respondent” means the person accused of discrimination, harassment or retaliation.

III. PROHIBITED ACTIVITIES

To ensure an environment free of harassment, certain behaviors and activities are prohibited within the workplace. These include, but are not limited to threatening, offensive or unwelcome conduct such as:

A. Abusive verbal language directed towards an individual due to the individual’s

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inclusion in one or more of the protected classes;

- B. Derogatory comments, jokes, gestures or slurs based upon one or more of the protected classes;
- C. Unwanted physical contact of any kind, impeding or blocking movement or physical interference with normal work movement when directed at an individual based upon his/her membership in one or more of the protected classes;
- D. The display, mailing or e-mailing of derogatory or lewd posters, cartoons, drawings or objects directed at individuals based upon one or more of the protected classes;
- E. Behavior which sexually harasses another person;
- F. Lewd or obscene comments about an individual's body, attire, gender or sexual preference, including abusive comments or terminology directed towards a specific employee; and/or
- G. Use of work computers to transmit, solicit, display or download derogatory, lewd or obscene messages or materials.

IV. PROCEDURE

- A. Reporting Allegations of Discrimination, Harassment or Retaliation - Any employee or job applicant who believes he/she is a victim of discrimination, harassment or retaliation at work by supervisors, managers, co-workers, contract employees, visitors, vendors, or customers, should report the incident as soon as possible and complete a EEO Complaint form.

Employees should file a complaint through:

- the [Cabinet EEO Coordinator](#);
- the [agency EEO counselor](#); or
- a manager or supervisor.

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Employees may also pursue complaints through the [State EEO Coordinator](#), the [Kentucky Personnel Board](#), the [Kentucky Commission on Human Rights](#), or the [federal Equal Employment Opportunity Commission \(EEOC\)](#).

- B. Complaint Investigations - The Office of Equal Employment Opportunity and Contract Compliance (EEO/CC) shall investigate all complaints. Once an employee files a complaint, an investigation begins. This investigation shall include, but is not limited to, interviews with all relevant persons including the complainant, the respondent, and other potential witnesses.

To the extent possible, the privacy of the complainant and the respondent shall be kept confidential. Information concerning the complaint shall not be released to third parties or anyone who is not involved with the investigation under the Open Records Act. Nor shall anyone involved be permitted to discuss the subject outside the investigation.

At the conclusion of an investigation, both the complainant and the respondent will be notified of the investigation findings. If warranted, disciplinary action(s) and/or corrective action(s) may occur.

- C. Withdrawing a Complaint – To withdraw a complaint of discrimination, harassment or retaliation, the complainant must submit an EEO Complaint Withdrawal form and state the reasons for the request to withdraw the complaint. The EEO Complaint Withdrawal form must be submitted to the Cabinet EEO Coordinator.

Once the EEO Complaint Withdrawal form is received, the Cabinet EEO Coordinator, prior to making the determination to end an investigation, must consider whether evidence has been found that may lead to the conclusion that the Cabinet has an obligation to continue the investigation.

In either event, the Cabinet EEO Coordinator shall notify the complainant and respondent in writing that the complainant has withdrawn the complaint. The notice will include information regarding whether the investigation has been terminated or is continuing.

- D. Requesting Reasonable Religious Accommodation - An employee shall notify the Cabinet EEO Coordinator, agency EEO counselor, or his/her supervisor or manager of the need for a reasonable religious accommodation and complete the Reasonable Religious Accommodation form.

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- E. Processing Requests for Reasonable Religious Accommodation – To facilitate the request, the employee and the Cabinet shall work together to determine an effective reasonable religious accommodation. The Cabinet, however, shall make the final determination regarding a reasonable religious accommodation.

An employee requesting reasonable religious accommodation may be required to provide documentation about his/her religious practice or belief.

Factors to be considered when making a determination about a reasonable religious accommodation may include, but are not limited to: the impact on agency operations and services, the affect of any workload shift on supervisors and co-workers, the duration of the request, the safety of the individual and his/her co-workers, as well as the individual's ability to perform the essential functions of his/her job if the accommodation is approved.

- F. Any employee who does not feel comfortable filing a complaint of harassment, discrimination or retaliation, or a request for reasonable religious accommodation through a manager or supervisor or their agency EEO counselor, should contact the Cabinet EEO Coordinator.

V. RESPONSIBILITIES

A. Supervisor/Manager shall:

1. Ensure dissemination of this procedure and EEO forms to employees without Internet or e-mail access.
2. Notify the Office of EEO/CC when:
 - a. The supervisor/manager witnesses or becomes aware of potential discrimination, harassment or retaliation;
 - b. An employee files an EEO complaint;
 - c. Any employee makes an allegation of discrimination, harassment or retaliation; or
 - d. An employee requests a reasonable religious accommodation.

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B. Cabinet EEO Coordinator within the Office of EEO/CC shall:

1. Investigate complaints or suspicions of discrimination, harassment and retaliation;
2. Handle requests for reasonable religious accommodation.

C. Agency EEO counselors shall:

1. Notify the Cabinet EEO Coordinator when a complaint or request for reasonable religious accommodation is received.

D. Cabinet employees shall:

1. Avoid engaging in offensive or inappropriate behavior at work to ensure a workplace that is free from harassment, discrimination and retaliation at all times.
2. Report any instances of harassment, discrimination, or retaliation at work by anyone including managers, supervisors, co-workers, contract employees, visitors, vendors or customers.

VI. TRAINING

Anti-Harassment and Diversity training through the Kentucky Personnel Cabinet is required for all Cabinet employees.

- A. New employees must take Anti-Harassment training within the first ninety (90) days of employment with the Cabinet.
- B. All employees must take one course every two (2) years, alternating subjects, so that both Anti-Harassment and Diversity training are completed within a four (4) year time frame.

VII. DISCIPLINARY AND CORRECTIVE ACTIONS FOR VIOLATIONS

Any Cabinet employee determined to have refused to abide by or to have violated the EEO procedures shall be subject to disciplinary action, including, but not limited to reprimand, fine, demotion, suspension and dismissal.

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Employees who participate in good faith in EEO investigations are protected under the EEO laws from retaliation; however, an employee may be disciplined for knowingly and maliciously providing false information during an EEO investigation.

VIII. FILING DEADLINES

- A. Employees must file complaints within thirty (30) days of the occurrence or knowledge of an incident of harassment, discrimination or retaliation.
- B. The State EEO Coordinator, Kentucky Personnel Board, Kentucky Commission on Human Rights, and the federal EEOC have established their own filing deadlines. Employees should contact these agencies for additional information.
- C. Employees should make requests for reasonable religious accommodation within a reasonable amount of time so that there is appropriate time to consider the request.

IX. FORMS

[Form SP7.300011: EEO Complaint Form](#)

[Form SP7.300012: EEO Complaint Withdrawal Form](#)

[Form SP7.300013: Request for Reasonable Religious Accommodation Form](#)

X. REFERENCES

[Finance & Administration Cabinet Affirmative Action Plan](#)